

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Misc. Appeal No.334/2024
Arising out of TA No.272/2022 (DRT-III, Delhi)

Item No. 26

Sh. K.K. Kumar and another
V.
State Bank of India and others

16.07.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. Sanjeev Bhandari, Senior Advocate along with Sh. Amit Dhall
and Sh. Arjit Sharma, Advocates for appellants

Sh. S.L. Gupta, Advocate for respondent bank

This matter is taken up through Hybrid hearing.

1. The respondent no.1 along with other banks/Financial Institutions filed O.A. bearing T.A. No. 272/2022 titled as **State Bank of India and others v. M/s Shakti Bhog Foods Limited & others** which is stated to be pending before DRT-III, Delhi.
2. The appellants who were defendants no.2 and 4 before the DRT-III, Delhi along with defendant no.3 Siddhartha Kumar filed I.A. bearing No. 1048/2024 wherein prayed that to take off the record the evidence by way of affidavit of Sh. Padam Kant, the witness of appellant no.1 with respect to applicant no.7 Oriental Bank of Commerce and applicant no.8 Corporation Bank before the DRT. It was contended in the application bearing I.A. No. 1048/2024 that the respondent no.1 has filed evidence by way of affidavit of Sh. Padam Kant, Chief Manager of respondent no.1 on 28.07.2018 and the documents were exhibited. It is further stated that the applicants no.7 & 8 have issued separate sanction letter, separate set of documents as such Sh. Padam Kant was not having any authority to exhibit the documents on behalf of applicants no.7 & 8.
3. The respondent no.1 to oppose the said application contended that the affidavit in evidence was filed by the authorized officer of the respondent no.1 State Bank

of India being the leader of the consortium of the banks and the loan/security documents were executed at overseas branch State Bank of India for corporate loan facility and these documents were in possession of the respondent no.1 as leader of the consortium of the banks.

4. DRT-III, Delhi vide impugned order dated 17.10.2024 has dismissed the application after considering the rival contentions of the contesting parties. The relevant portion of the impugned order dated 17.10.2024 is reproduced as under:

8. This Tribunal has heard the submissions of both parties and has carefully considered the facts and contentions raised in IA No. 1048/2024 filed by defendants no. 2 to 4, seeking to take off the record the evidence by way of affidavit of Sh. Padam Kant, witness of applicant no. 1 (State Bank of India) in respect of applicants no. 7 & 8.

9. The main contention of the defendants is that the affidavit of evidence of Sh. Padam Kant, Chief Manager of applicant no. 1 bank, cannot be considered as evidence on behalf of applicants no. 7 & 8. It is argued that applicants no. 7 & 8 have filed separate sanction letters and documents, which were independently verified and annexed by their respective authorized officers. Hence, the affidavit of Sh. Padam Kant cannot be treated as valid evidence under the second proviso to Section 19(i)(a) of the RDB Act, and the documents exhibited by applicant no. 1 cannot be read as evidence on behalf of applicants no. 7 & 8.

10. The applicant bank, in its reply, vehemently opposed the application, stating that the affidavit of evidence was filed by the authorized officer of applicant no. 1 bank as the leader of the consortium of banks. It was further argued that the loan and security documents executed by the defendants were in the possession of applicant no. 1 as the leader of the consortium, and that these documents were duly exhibited and admitted by the defendants during the proceedings. The applicant bank also contends that this application has been filed at the stage of final arguments with the sole purpose of delaying the adjudication of the OA.

11. The Tribunal notes that applicants no. 7 & 8 are indeed members of the consortium of banks, and the documents in question were exhibited by applicant no. 1 in its capacity as the leader of the consortium. Further, the Tribunal observes that a similar prayer had been made earlier in IA No. 04/2024, wherein the defendants sought dismissal of the OA on the ground that no evidence was filed in support of the OA in accordance with the Indian Evidence Act. The said IA No. 04/2024 was dismissed vide order dated 18.04.2024. The present IA No. 1048/2024 appears to be a repetition of the earlier contentions, which have already been adjudicated and dismissed by this Tribunal.

12. After considering the facts, submissions, and the previous order passed by this Tribunal, this Tribunal finds no merit in the present application. The

evidence by way of affidavit of Sh. Padam Kant has been properly filed and exhibited on behalf of the applicant no. 1 bank in its capacity as leader of the consortium, and the same can be read in evidence in accordance with law. In light of the above, IA No. 1048/2024 is hereby dismissed with cost of Rs 25,000/- which shall be paid in to the account of Prime Minister Relief Fund within 10 days.

5. Sh. Sanjeev Bhandari, Senior Advocate appearing on behalf of the appellants contended that DRT-III, Delhi in Para-11 of the impugned order has made observation to the effect that the applicants no.7 and 8 were members of the consortium of the banks and the documents in question were exhibited by respondent no.1/ applicant no.1 in its capacity of leader of the consortium. Sh. Sanjeev Bhandari, Senior Advocate also referred the verification part of the Original Application and argued that the observation as made in para-11 of the impugned order was unwarranted and should also be set aside.

6. Sh. S.L. Gupta, Counsel appearing on behalf of respondent no.1 stated that the corporate loan facility was extended to the defendants in Original Application and the respondent no.1 State Bank of India was the leader of the consortium of the banks. He defended the impugned order.

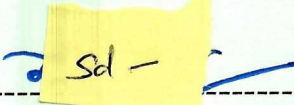
7. The perusal of the impugned order reflects that the applicants of the I.A. No. 1048/2024 has prayed for taking off the evidence by way of affidavit submitted by Padam Kant from the record merely on the ground that the said witness cannot depose in relation to applicants no.7 and 8 who had issued separate sanction letter and executed separate set of documents.

8. In the assessment of this Tribunal all these pleas which are stated to be taken in I.A. bearing No. 1048/2024 can be taken during the trial and disposal of O.A. bearing T.A. No. 272/2022. The relevance and admissibility of the evidence stated to have been submitted by Padam Kant can only be decided at the final judicial determination of O.A. bearing T.A. No. 272/2022 by the concerned DRT.

9. The DRT-III, Delhi has taken the correct legal view while passing the impugned order dated 17.10.2024 whereby, I.A. bearing No. 1048/2024 was dismissed. There is no illegality or infirmity in the impugned order dated 17.10.2024 which warrants any interference by this Tribunal. Hence appeal is disposed of.

10. However, it is made clear that the DRT-III, Delhi while passing final judgment/order in O.A. bearing T.A. No. 272/2022 shall not be influenced by any observation made in the order dated 17.10.2024 being interim / interlocutory in nature particularly the observation made in para-11 of the impugned order as pointed out by Sh. Sanjeev Bhandari, Senior Advocate for appellants.

11. It is also made clear all the pleas and contentions as taken by the appellants in the present appeal shall also be available with the appellants during the trial of O.A. bearing T.A. No. 272/2022.



(Dr. Justice Sudhir Kumar Jain)
Chairperson

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